

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.53751 of 2013**

Arising Out of PS.Case No. -447 Year- 2012 Thana -BHABHU(KAIMUR) COMPLAIN C District-  
BHABHUA (KAIMUR)

- =====
1. Ram Nishan Singh S/O Late Raghunath Singh, Resident of Village - Sahuka, P.S. Ramgarh, District - Kaimur
  2. Phulwanti Devi, W/O Ram Nishan Singh Resident of Village - Sahuka, P.S. Ramgarh, District - Kaimur
  3. Sanjay Kumar Singh, Son of Ram Nishan Singh Resident of Village - Sahuka, P.S. Ramgarh, District - Kaimur
  4. Ajay Kumar Singh, Son Of Ram Nishan Singh Resident Of Village - Sahuka, P.S. Ramgarh, District - Kaimur
  5. Vijay Kumar Singh Son Of Ram Nishan Singh Resident Of Village - Sahuka, P.S. Ramgarh, District - Kaimur

.... .... Petitioners

Versus

1. The State of Bihar
2. Basanti Devi, D/O Bhorik Singh, Resident of Village - Narhan, P.S. Ramgarh, District – Kaimur.

.... .... Opposite Parties

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**Appearance :**

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| For the Petitioners | : | Mr. Ravi Shankar Sahay, Advocate<br>Mr. Ajay Nandan Sahay, Advocate |
| For the O.P. No.2   | : | Mr. Rajesh Kumar, Advocate<br>Mr. Vinod Kumar Seth, Advocate        |
| For the State       | : | Mr. D.P.Tiwary (App)                                                |

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA**

**ORAL ORDER**

6      11-07-2017

This application is directed under Section 482 of the Cr.P.C. against the order dated 31.10.2012 passed in Complaint Case No. 447 of 2012, whereunder the court of S.D.J.M. Kaimur at Bhabua summoned the petitioners and one Santosh Kumar Singh, on enquiry, under Section 204 of the Code of Criminal Procedure finding prima facie case under Section 323, 324, 498(A), 406 and 504 of the Indian Penal Code.

The facts leading to this application is that O.P. No.2 Basanti Devi filed Complaint Case No. 447 of 2012 stating there in



that her marriage was performed with Santosh Kumar Singh in the year 1999. At the time of her 'Bidai' her husband and father-in-law Ram Nishan Singh made demand of T.V. and golden chain, but after intervention of the relative, the matter was pacified and she was taken to her matrimonial house, where she was kept properly for two years. Thereafter, she was being tortured for demand of dowry. While her parents and brother arranged Panchayati and tried to pacify the matter, but her in-laws said that if the demand of dowry would not be fulfilled then he would perform re-marriage of their son. At the instigation of her father-in-law and mother-in-law, her husband Santosh Kumar Singh used to assault her. In the meanwhile, she gave birth of a child, namely, Ankit aged about 7 years. Thereafter, on 20.03.2012, she was driven out from her matrimonial house after snatching her personal belongings. While her parents went to her matrimonial house to pacify the matter, but her in-laws were adamant on the demand.

Learned counsel for the petitioner submits that O.P. No.2 had earlier filed Compliant Case No. 704 of 10 according to which she was removed from her matrimonial house in the year 2010 as such no occasion arise about torturing to her for non-fulfillment of demand of dowry and driven out from her matrimonial house on 20.03.2012 in the present case. Further submission is that before six years, Santosh Kumar Singh, husband of O.P. No.2 left the house in connection with his livelihood regarding which Sub-Inspector, Ramgarh P.S. has submitted report in the Court of Sessions Judge in connection with Anticipatory Application No. 46 of 2013, which



would appear from Annexure-3.

On perusal of the complaint petition, it appears that specific allegation has been made by the complainant/O.P. No.2 for demand of dowry and torturing for same against her husband Santosh Kumar Singh, father-in-law Ram Nishan Singh, mother-in-law, Phulwanti Devi, but no overt act has been attributed against petitioner No.3 Sanjay Kumar Singh, Petitioner No.4 Ajay Kumar Singh and petitioner No.5 Vijay Kumar Singh, who are brother-in-laws of Complainant-O.P. No.2. While in Complaint Case No. 447 of 2012 it is not detailed that earlier the Complainant-O.P. No. 2 was removed to her matrimonial house as alleged in Complaint Case No. 704 of 2010, but from S.A. of the complainant, it appears that she was earlier removed from her matrimonial house for 4-5 times. As such, I do not find any illegality in the impugned order summoning to petitioner No.1 Ram Nishan Singh, father-in-law and petitioner No.2 Phulwanti Devi, mother-in-law of complainant-O.P. No.2.

So far as the petitioner Nos.3 to 5 are concerned, no specific overt act has been attributed against them regarding demand of dowry and torturing for same to complainant-O.P. No.2 in the complaint petition and S.A. of Complainant-O.P. No.2. In this view of the matter impugned summoning the petitioner No.3 Sanjay Kumar Singh, Petitioner No.4 Ajay Kumar Singh and petitioner No.5 Vijay Kumar Singh, who are brothers-in-law of Complainant-O.P. No.2 also under Section 204 Cr.P.C. finding prima facie case under Sections 323, 324, 498(A), 406 and 504 of Indian Penal Code is illegal and abuse of the process of Court.



In the result, the impugned order dated 31.10.2012 passed in Complaint Case No. 447 of 2012 in respect to only petitioner No.3 Sanjay Kumar Singh, Petitioner No.4 Ajay Kumar Singh and Petitioner No.5 Vijay Kumar Singh is hereby quashed. Accordingly, this application is partly allowed.

**(Rajendra Kumar Mishra, J)**

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